If then the interest of the beneficiary is a vested interest what effect has the insertion, in the policy, of the words "if surviving?" Under the trust theory these words would have no effect for immediately upon the death of the beneficiary, before the insured, the policy without the words "if surviving" would revest in the insured. But if the interest of the beneficiary is vested, the insertion of these words makes the vested estate liable to be devested by the happening of the condition subsequent. Where the insured and beneficiary perish in a common disaster and no evidence can be produced to show survivorship then since the personal representatives of the insured cannot prove that the condition has happened the interest of the beneficiary cannot be devested.

Because the operation of this rule, affirmed in *U. S. Casualty Co. v. Kacer, supra,* does not in every case carry out the intentions of the insured is not a sufficient reason for adopting the trust view of the beneficiary's interest.

READING THE BIBLE IN COMMON SCHOOLS.

Is reading the Bible in a public school a violation of the provision usually found in the State constitutions declaring that every one has the right to worship God according to the dictates of his own conscience? Does reading the Bible in a public school make the school a "place of worship" which no one may be compelled to support? Is the Bible sectarian? All of these three very interesting questions were recently decided in the affirmative in the case of *State v. Scheve,* 91 N. W. 846. The authorities have decided both ways upon each of these points. And even in this case, while all were agreed that the reading of the Bible, accompanied by singing and praying, according to the usages of the so-called "Orthodox Evangelical Churches," was contrary to a constitutional provision against the giving of sectarian instruction in public schools (which can not be denied), the court divided on these three questions stated.

The majority of the court in this case rely mainly upon *State v. District Board,* 76 Wis. 177, but go a great deal farther. For while the Wisconsin case is authority for the decision that the reading of the Bible in such an instance as this, makes the public school a "place of worship," and that the indiscriminate reading of the Bible violates the constitutional provision in question, it holds that only portions of the Bible are sectarian; that the reading of portions other than these is constitutional; and that a text-book founded upon such other non-sectarian portions, or upon the principles of the Bible as a whole, is a lawful text-book.

The position of the court on the question as to whether the reading of the Bible in a public school makes the school a "place of worship," seems to us to be untenable. To hold with the court in this case and with the Wisconsin case, is placing a strained construction upon the provision in question. The manifest object of the constitutional provisions concerning the maintaining of "places of

worship," is not to prevent religious worship in public buildings, but to prevent an increase of the burden of taxation for the purpose of making the people support places used distinctively for religious worship. In support of this view see *Moore v. Moore,* 64 Ia. 367. Following the cases just referred to we see no escape from the conclusion that we are violating the spirit of our constitutions when we provide chaplains and permit them to pray (usually according to the usages of some particular sect), in our legislative halls; and again, when we suffer religious services to be held in our penal institutions. For these places are supported by the public, and according to the cases cited these acts make them "places of worship." Obviously these cases go too far.

On the general question as to whether the religious liberty clauses which are substantially the same in most of our State constitutions are intended to entirely exclude the Bible from the public schools—the earlier cases are not in harmony with these more recent. Thus *Donohue v. Richards,* 38 Me. 376, decided that a requirement by a school committee that the Protestant version of the Bible should be read in the public schools of their town by every pupil who was able to read, did not violate a provision in the Constitution of Maine, that no one should be "hurt, molested or restrained in person, liberty or estate, for his religious professions or sentiments," and further that a law is not unconstitutional merely because it requires one to do something which is against his conscience. *Spiller v. Woburn,* 12 Allen 127, goes farther still. In that case it was decided that it is competent for a school committee to order that school be opened each morning with reading from the Bible and prayer, and that the pupils bow their heads while prayer was being offered. The court held that such an order was not contrary to a clause in the Constitution of Massachusetts protecting every one in the worship of God "according to the manner and season most agreeable to the dictates of his own conscience"; that a pupil may be excluded for not complying with the order; and that such exclusion did not violate a statute providing that no one should be excluded from the public schools on account of his religious beliefs.

There is some doubt as to whether these cases decided in the earlier part of last century will continue to be very generally followed, as there is a growing tendency (of which the case under comment is evidence), on part of the courts to adopt an interpretation of this class of constitutional provisions which will give the largest possible freedom in the exercise of religious belief.

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